

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 543

Case No. 87-5

(Bojan - Map Amendment)

September 21, 1987

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 22, 1987. At that hearing session, the Zoning Commission considered an application from Louis Bojan, pursuant to Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of Section 3022 of that title.

FINDINGS OF FACT

1. The application, which was filed on February 17, 1987, requests zoning from unzoned property to R-4 for a portion of parcel 243/61.
2. The subject site is located at the northeast corner of the intersection of Fourth Street and Mississippi Avenue, S.E., and contains approximately 145,500 square feet of land area.
3. The applicant has no specific development plans at this time. However, zoning is required to be applied before the site is developed.
4. The subject site, which is also known as GSA Parcel III, is one of three contiguous parcels that was acquired by the applicant from General Services Administration (GSA) of the U.S. Government through a bid procedure. The applicant also bid on GSA Parcel II, which is contiguous to and north of the subject site, and through litigation of that bid, is in the process of acquiring that parcel. Once GSA Parcel II is acquired, the applicant intends to file a second application for zoning.
5. The subject site is trapezoidal in shape and unimproved, consists of a few trees, shrubs and undergrowth, and slopes steeply uphill from Mississippi Avenue to the north. The site is located in the Congress Heights neighborhood of the southeast sector

of the city. The site has 425 feet of frontage on the east side of Fourth Street and 571.3 feet of frontage on the north side of Mississippi Avenue.

6. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of eighteen feet, a maximum lot occupancy of sixty percent, and maximum height limit of three stories/forty feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.
7. To the north of the subject site is unzoned land, which is known as GSA Parcel I and is a portion of a larger tract of land from which the subject site was subdivided; to the east is an R-5-A zone district; to the south and across Mississippi Avenue are the Oxon Hill Recreation Center, Hart Junior High School and Simon Elementary School all of which are in an R-5-A zone district; and to the west and across Fourth Street is Ballou High School which is in an R-5-A zone district.
8. There is a large expanse of R-2 and R-4 zoned and developed property located approximately 600 feet to the north of the site along Savannah Street and Martin Luther King Jr. Avenue. There are two small C-1 zoned sites located several blocks east and west of the site; and a pocket of R-5-B zoned property located approximately 800 feet north of the site.
9. The District of Columbia Generalized Land Use Element of the Comprehensive Plan for the National Capital includes the subject site in the moderate density residential land use category.
10. Because the subject site is more than three acres in area, the applicant will be subject to the Large Tract Review Process, before a building permit is issued. This review is coordinated by the District of Columbia Office of Planning (OP). The goals of the review process are to minimize adverse environmental, traffic and neighborhood impacts, as well as to avoid unnecessary public costs in terms of new services or facilities required of city agencies and to carry out the policies of the District elements of the Comprehensive Plan. The applicant is familiar with this process through conversations with OP.
11. The applicant indicated that R-4 development of the site would be in harmony with the indigenous construction in the area. He indicated that he was an experienced developer of single-family housing and has

constructed quality houses during the past twenty (20) years.

12. The applicant, through its architect, testified about how it would develop the site considering the existing topographic conditions.

13. OP, by memorandum dated June 4, 1987 and by testimony presented at the public hearing, recommended that the application be approved. OP stated the following:

"First and foremost, the property is unzoned and its classification with an appropriate zone district is required before it can be developed. Second, the site is located in close proximity to other R-4 zoned and higher density residential districts (R-5-A, R-5-B). The proposed R-4 District is supported by the Comprehensive Plan Generalized Land Use Map which designates the site as appropriate for moderate density residential use. OP notes that the large size of the property and its physical features (grade, tree cover) will be taken into consideration by the Large Tract Review process once building permits are filed."

14. In reference to the issue of "spot zoning", OP stated the following:

"The subject site is located approximately 600 feet southwest of the nearest R-4 zoned property. This factor may raise the issue of spot zoning but does not necessarily constitute invalid spot zoning. It is generally held that a case can be made for creating a different zone district than that in surrounding properties where the map amendment is in the public interest, is not inconsistent with the Comprehensive Plan, and the zoning action is not found to be arbitrary by benefiting a private person. Additionally, the site is substantial in size (3.34 acres). OP is of the opinion that a case can be made for rezoning this property based on sound planning and zoning principles."

15. The District of Columbia Department of Public Works (DPW), by memorandum dated June 12, 1987, determined that development of the site could yield eighty (80) dwelling units. DPW reasoned that traffic generated by that level of development would have a negligible impact on the street system. DPW concluded that it had no objections to the rezoning and that the application will have a negligible impact on the local transportation system.

16. The District of Columbia Department of Housing and Community Development (DHCD), by memorandum dated May 29, 1987, supported the application. DHCD requested that the applicant be advised that DHCD has many programs to aid in the construction of housing for low and moderate-income people and that it will entertain a proposal if the developer would like to address housing at that level.
17. The District of Columbia Fire Department (DCFD), by memorandum dated May 19, 1987, stated the following:

"The Fire Department has reviewed the above-subject zoning case and recommends an automatic sprinkler system be installed in each building, to reduce the adverse effect a fire in these buildings could have on the Fire Department operations. This recommendation is based on the fact that there is no firm proposal for development and no site plan submitted for review.

The Fire Department's interest in the development of parcel 243/61 is in providing access to drive-ways, alleys (if they are to exist), number of ways in and out of the development, fire hydrant locations and fire lanes."

18. The District of Columbia Public Schools (DCPS), by memorandum dated May 27, 1987, does not oppose the application. DCPS indicated the following:

"Although the number of townhouse units the developer hopes to construct is unspecified, our schools in the vicinity should accommodate student population generated by the new housing."
19. The District of Columbia Metropolitan Police Department (MPD), by memorandum dated May 26, 1987, does not oppose the application. MPD included its comments relative to security precautions that it believes the applicant should include during the design phase.
20. Advisory Neighborhood Commission (ANC)-8C filed no report in the proceeding.
21. There were no other parties either in support or opposition to the application, nor were there any persons in support of the application.
22. One person opposed the application because of the lack of communication between the applicant and the community. He indicated that there were problems related to overcrowding in the area schools. He further indicated that soil erosion and storm water problems existed with

some of the housing that had been previously developed by the applicant in the subject area.

23. The Commission believes that zoning should be applied to the site and concurs with the position of OP. The Commission further concurs with DPW regarding traffic impact, DHCD regarding housing, DCFD, and MPD.
24. As to the concerns regarding overcrowded schools, soil erosion and storm water, the Commission finds that there is sufficient merit to request relevant government agencies to specifically address the aforementioned concerns.
25. On August 3, 1987, the Zoning Commission took proposed action on the application but left the record open for receipt of reports from DPW and the Department of Consumer and Regulatory Affairs (DCRA).
26. The proposed action of the Zoning Commission to approve the application was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self Government Reorganization Act. The NCPC, by report dated September 3, 1987, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.
27. The Zoning Commission received post-hearing submissions from DCPS dated July 27, 1987, DPW dated August 27, 1987, and DCRA dated September 14, 1987.
28. On September 21, 1987, at its regular monthly meeting, the Zoning Commission considered the post-hearing submissions and determined that the issues regarding subdivision, storm water run-off, and soil erosion are addressed by the District through the large-tract review process. The Commission concurs with the post-hearing submission from the DCPS.
29. The Commission finds that the applicant has satisfied the criteria of 11 DCMR 102.

CONCLUSIONS OF LAW

1. The rezoning of this site to R-4 is compatible with city-wide goals, and programs, and is sensitive to environmental protection and energy conservation.
2. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.

3. Approval of this application is consistent with the purposes of the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and serving to stabilize and improve the area.
4. Rezoning the site to R-4, as set forth herein, will not have an adverse impact on the surrounding community.
5. The approval of this application will promote orderly development and conformity with the entirety of the District of Columbia Zoning Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
6. The Commission did not accord "great weight" consideration to ANC-8C because the ANC did not express its concerns to the Commission.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of this application as follows:


Change from unzoned property to R-4 that portion of parcel 243/61 (aka GSA Parcel III) located at the northeast corner of the intersection of Fourth Street and Mississippi Avenue, S.E., and as shown on Exhibits No. 4 and 24 in the record of this case.

Vote of the Commission taken at the regular public meeting on August 3, 1987: 3-0 (John G. Parsons, Patricia N. Mathews, and Lindsley Williams, to approve - George M. White and Maybelle T. Bennett, not voting not having participated in the case).


This order was adopted by the Zoning Commission at its regular public meeting on September 21, 1987 by a vote of 3-0 (John G. Parsons, Patricia N. Mathews and Lindsley Williams, to adopt as amended - George M. White and Maybelle T. Bennett, not voting not having participated in the case).

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In accordance with Title 11 DCMR, Section 3028, this order
is final and effective upon publication in the D.C. Regis-
ter; that is on 30 OCT 1987.



LINDSLEY WILLIAMS
Chairman
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat

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